

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Flexibility for Delivery of)	IB Docket No. 01-185
Communications by Mobile Satellite)	
Providers in the 2 GHz Band, the)	
L-Band, and the 1.6/2.4 GHz Band)	
)	
Amendment of Section 2.106 of the)	ET Docket No. 95-18
Commission's Rules to Allocate)	
Spectrum at 2 GHz for Use by)	
Mobile Satellite Service)	

To: The Commission

**REPLY COMMENTS OF
THE RURAL TELECOMMUNICATIONS GROUP**

The Rural Telecommunications Group ("RTG"),¹ by its attorneys, hereby replies to the initial comments filed in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceedings.²

¹ The Rural Telecommunications Group is a group of rural telecommunications providers who have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG's members provide wireless telecommunications services, such as cellular telephone service, Personal Communications Service ("PCS"), Multichannel Multipoint Distribution Service ("MMDS"), and Local Multipoint Distribution Service ("LMDS") to their subscribers. Other RTG members seek to acquire spectrum or to be able to utilize the spectrum of others. They have found it difficult to acquire spectrum through auctions or to structure management or lease arrangements due to existing FCC rules, policies, and case precedent. RTG's members are all affiliated with rural telephone companies or are small businesses.

² *In re Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band; Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, IB

In the NPRM, the FCC sought comment on its proposal to integrate terrestrial services with mobile satellite service (“MSS”) networks. Specifically, the FCC proposed allowing MSS licensees to integrate ancillary terrestrial services using assigned MSS spectrum.³ Alternatively, the Commission proposed to reallocate some MSS spectrum for use by any entity to provide terrestrial services with either MSS providers or alternate mobile services.

While RTG supports the Commission’s initiative to reallocate spectrum for terrestrial services, RTG supports commenters⁴ who emphatically urge the Commission to comply with the requirements of Section 309(j) of the Communications Act,⁵ and allow all other interested parties an opportunity to acquire this spectrum through the competitive bidding process to provide terrestrial services that could either be offered in conjunction with MSS or as an alternative mobile service. Because the Commission’s proposal allowing MSS licensees to integrate ancillary terrestrial service using assigned MSS spectrum was predicated on serving rural and underserved areas, the Commission should provide auction incentives to rural telecommunications carriers who are most likely and most able to serve these areas. Congress directed the Commission to, *inter alia*, ensure the rapid deployment of new services in rural areas and to fashion auction procedures that ensure prompt delivery of services to rural areas; and to prescribe area designations and bandwidth assignments that promote economic

Docket 01-185, ET Docket No. 95-18, *Notice of Proposed Rulemaking*, FCC 01-225 (rel. August 17, 2001) (“NPRM”).

³ *NPRM* at ¶¶ 29-36.

⁴ *See generally*, AT&T Wireless Comments, Rural Cellular Association Comments, Joint Comments of Cingular Wireless and Verizon Wireless, and CTIA Comments.

⁵ 47 U.S.C. § 309(j).

opportunity for designated entities, such as rural telephone companies.⁶ The Commission has frequently overlooked Congress' directive to provide auction incentives for rural telephone companies and smaller businesses. If the FCC is serious about its commitment to rural areas, RTG strongly encourages the Commission to follow the congressional direction of Section 309(j) in order to deliver new services to rural regions.

I. RTG SUPPORTS THE FCC'S PROPOSAL TO PROVIDE RURAL AREAS WITH BROADBAND COMMUNICATIONS

In the *NPRM*, the Commission emphasized that spectrum in the 1610-1626.5/2483.5-2500 MHz bands would be used to help bring broadband communications to rural and underserved areas. The Commission stated, "We are committed to policies promoting the provision of broadband communications services to rural, unserved and underserved areas of the country."⁷ New ICO Global Communications ("ICO"), an MSS licensee, supports the Commission's proposal to provide flexible use of ancillary terrestrial services using assigned MSS spectrum. ICO believes that by allowing terrestrial use of MSS spectrum, the Commission will further its goals of deploying nationwide communications services. In its comments, ICO stated, "[P]ublic safety, military, maritime, and recreational users will benefit from MSS coverage of rural areas, even if they do not live in rural areas."⁸ ICO's MSS, however, is not necessarily the best means to deploy these broadband communications in rural areas.

⁶ 47 U.S.C. §§309(j)(3) and (4).

⁷ *NPRM* at ¶ 12.

⁸ *See* ICO Comments at 7.

If the Commission allows MSS providers to integrate ancillary terrestrial services using assigned MSS spectrum, ICO claims that it will be able to better serve rural areas. In order to serve rural areas, ICO commented that it must be able to serve the urban areas too, implying that desirable urban areas are the just reward for serving rural regions. ICO stated in its comments that “it would be impossible for any MSS provider to cover all the rural areas without covering the urban areas in the same beam.”⁹ ICO also stated that ancillary terrestrial services would help MSS operators penetrate buildings to provide in-building and urban coverage.¹⁰ RTG is sympathetic with ICO’s desire to provide urban coverage to gain greater economic viability. However, RTG notes that MSS providers, like ICO, already have the spectrum and capability to serve rural areas, and have not yet done so. Along with providing ICO and other MSS providers with a second chance to serve rural regions and a chance to serve urban areas, the Commission should also allow rural telephone companies to use the valuable 2 GHz spectrum.

As ICO conceded, “an already weak [MSS] market has weakened further.”¹¹ It does not make economic sense to allow an already struggling licensee to tie up valuable spectrum that other carriers are better able to utilize, “especially in light of the existence of already successful commercial services that are in dire need of spectrum to continue their rapid growth.”¹²

⁹ ICO Comments at 4.

¹⁰ *Id.* at 15.

¹¹ *See, id.* at 2.

¹² *See* AT&T Wireless Services Comments at 9.

II. THE FCC SHOULD ALLOW FLEXIBLE USE OF MSS SPECTRUM THROUGH THE COMPETITIVE BIDDING PROCESS

Although RTG fully supports the Commission's proposal to reallocate MSS spectrum for terrestrial service, the Commission should auction the spectrum to afford all carriers the opportunity to acquire it. RTG agrees with many other commenters positions seeking an auction.¹³ The Cellular Telecommunications and Internet Association ("CTIA"), for example, applauds the FCC for proposing flexible use of MSS spectrum. RTG agrees with CTIA, that Section 309(j) "requires the Commission to award these separate authorizations to provide terrestrial services by competitive bidding."¹⁴ It would be inequitable for the Commission to allow MSS providers to offer terrestrial services without bidding on the spectrum at an auction and would constitute a windfall for MSS licensees who have yet to demonstrate a genuine commitment to serving rural areas.¹⁵ Other terrestrial carriers must compete in auctions to acquire valuable spectrum. MSS carriers should have to do the same.

RTG supports the proposal to auction the MSS spectrum. The Commission should provide opportunities to all carriers through the competitive bidding process in accordance with Section 309(j). This includes providing rural telephone companies with auction incentives. As ICO noted, "[t]he Commission has already concluded that market forces alone will not guarantee that rural Americans have access to advanced telecommunications

¹³ See generally, AT&T Wireless Comments, Rural Cellular Association Comments, Joint Comments of Cingular Wireless and Verizon Wireless, and CTIA Comments.

¹⁴ See CTIA Comments at 8. See also, Joint Comments of Cingular Wireless and Verizon Wireless at 10.

¹⁵ See Joint Comments of Cingular Wireless and Verizon Wireless at 7.

services.”¹⁶ The Commission stated in the *NPRM* that it is committed to promoting policies for the provision of broadband communications services to rural and underserved areas of the country.¹⁷ The Commission should create bidding credits for designated entities (rural telephone companies and small businesses) in this auction to fulfill Congress’ directive under Section 309(j). This is the only public policy option that will ensure the use of this spectrum in “thin” rural markets. Rural telephone companies have the expertise of serving rural markets and can make an economically viable business case to serve such areas since they already have robust telecommunications infrastructure in place.

Rural telephone companies, and other designated entities, are “ready and able” to serve the rural community, but have found it difficult to acquire spectrum through auctions due to existing FCC rules, policies, and case precedent.¹⁸ The Commission has largely ignored Section 309(j), which requires the FCC to fashion auction procedures that ensure prompt delivery of services to rural America and to prescribe area designations and bandwidth assignments that promote economic opportunity for designated entities. The Commission should use this opportunity to provide rural telephone companies with auction incentives, such as bidding credits, to allow them to successfully participate in an auction of this valuable spectrum.

III. CONCLUSION

In furtherance of the its goals to ensure the rapid deployment of new services in rural areas, to fashion auction procedures that ensure prompt delivery of services to rural areas, and

¹⁶ See ICO Comments at 8.

¹⁷ *NPRM* at ¶ 12.

¹⁸ See Rural Cellular Association Comments at 4.

to prescribe area designations and bandwidth assignments that promote economic opportunity for designated entities,¹⁹ the Commission should reallocate MSS spectrum for terrestrial services, allow all carriers to participate in an auction of such spectrum, and provide rural telephone companies with auction incentives.

Respectfully submitted,

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¹⁹ *NPRM* at ¶ 12.